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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) NOKM.015CIP	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>April 19, 2007</u> Signature <u>Rennae Johnson</u> Typed or printed name <u>Rennae Johnson</u>		Application Number <u>10/043,936</u>	Filed <u>01/11/2002</u>
		First Named Inventor <u>MULLIGAN ET AL.</u>	
		Art Unit <u>2152</u>	Examiner <u>Doan, D.</u>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. <u>57,125</u> Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p><u>Erin M. Nichols</u> Signature <u>Erin M. Nichols</u> Typed or printed name <u>(952) 854-2700</u> Telephone number <u>April 19, 2007</u> Date</p>			
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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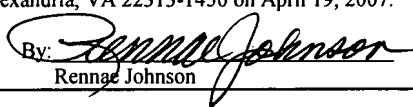
SERIAL NO. 10/043,936

PATENT APPLICATION

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Appellant: Mulligan et al. Examiner: Doan, D.
Serial No.: 10/043,936 Group Art Unit: 2152
Filed: January 11, 2002 Docket No.: NOKM.015CIP
Title: Network Services Broker System and Method

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 19, 2007.

By: 
Renae Johnson

APPELLANT'S STATEMENT IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This statement is presented by Appellant in compliance with the USPTO OG Notice of 12 July 2005 on New Pre-Appeal Brief Conference Pilot Program. Appellant is requesting a pre-appeal brief conference on the belief that the rejections of record are clearly not proper and are without basis. Appellant's request is based upon a clear legal or factual deficiency in the rejections, rather than an interpretation of the claims or the prior art teachings. As such, Appellant believes this request for pre-appeal brief review is appropriate.

Claims 1-6, 8-33, 40 and 41 are rejected based at least in part (under §§102(e) and 103(a)) upon the teachings of U.S. Publication No. 2003/0018704 by Polychronidis *et al.* (hereinafter "Poly"); Claims 34-39 are rejected based primarily (under §103(a)) upon the teachings of U.S. Patent No. 6,957,262 to Kimura *et al.* (hereinafter "Kimura"); and Claim 41 is also rejected under §101.

While Appellant has multiple issues for appeal, the primary purpose for submitting this particular request for review concerns omissions of essential elements required for the *prima*

facie anticipation and obviousness rejections. More specifically, the asserted references do not teach each of the claimed limitations.

The example limitations at issue for purposes of this request for review relate to a “terminal-coupled broker” with respect to both of the rejections based at least in part upon Poly and “receiving, at the service provision infrastructure, an address of the visited network service broker from a home network service broker associated with a home network” with respect to the rejection based primarily upon Kimura. To establish a *prima facie* §102(e) or a §103(a) rejection of at least the independent claims, these limitations must be present in the asserted references, as the Examiner alleges.

Poly does not teach at least one terminal-coupled broker, as claimed.

The Examiner contends that Poly’s NPL (Network Presence and Location) agent 21 corresponds to the claimed network service broker comprising at least one terminal-coupled broker. However, paragraph [0020] of Poly specifically states that “it is desirable to provide user presence and location information to applications which require such information, from a source other than the mobile (wireless) device” (emphasis added). Paragraphs [0020] and [0021] teach that the NPL is only coupled to the wireless network and is not in communication with mobile devices 22-1 and 22-N (asserted as corresponding to the claimed terminals). Further, paragraph [0026] indicates that the NPL agent 21 communicates with a wireless network 26 such as via a SMSC 28 and the SMSC 28 in turn communicates with the mobile devices 22 via the wireless network 26. Thus, none of the cited portions of Poly teach that NPL agent 21 is coupled to a mobile device. As Poly teaches that the mobile devices 22 do not communicate with NPL agent 21, NPL agent 21 cannot correspond to the claimed network service broker comprising at least one terminal-coupled broker. Without a presentation of correspondence to these limitations which are present in each of independent Claims 1, 18, 30, 33, 40 and 41, the §102(e) rejection is improper.

Further, Poly is solely relied upon as teaching a terminal-coupled broker, and the teachings of Rosenberg *et al.* (U.S. Publication No. 2003/0013434) have not been shown to

overcome the above-discussed deficiencies in the teachings of Poly. Thus, the §103(a) rejection based upon Poly is also unsupported and improper.

Kimura does not teach receiving an address of a visited network service broker from a home network service broker, as claimed.

The Examiner identifies (in the Response to Arguments) that Kimura teaches that a mobile node sends a foreign router address to a home gateway (“home gateway receiving a location registration request from a mobile node”). In contrast, the claimed limitations require that a service provision infrastructure receives an address of the visited network service broker from a home network service broker (e.g., Claim 34). Thus, the identified teachings of Kimura appear to be unrelated to the claimed limitations. Moreover, Kimura’s server cannot correspond to the claimed service provision infrastructure because the server does not, and would not, receive an address of the visited network service broker from a home network service broker associated with a home network since Kimura expressly teaches that the current location of a terminal is determined “not using the home network” (column 6, lines 9-13). Further, it has not been shown where or how Kimura teaches any service brokers or facilitating of access to service functionality available from a visited network, as claimed.

Kimura is solely relied upon as teaching these limitations, and the teachings of Das *et al.* (U.S. Patent No. 6,742,036) have not been shown to overcome the above-discussed deficiencies in the teachings of Kimura. As neither of the asserted references teaches these limitations, any combination of the asserted teachings must also fail to correspond to the claimed limitations. Thus, the §103(a) rejection is unsupported and improper.

The basis for the §101 rejection is defective.

The Examiner contends that page 44 of Appellant’s Specification teaches that a computer-readable medium could include signals. However, page 44 does not appear to include any mention of signals or a medium. The only use of the word “signal” in the Specification is at page 36, where the term “signal” is used to characterize the meaning of a “bearer,” and such discussion appears to be unrelated to the asserted statutory subject matter rejection. As the

discussion at page 44 does not appear to render the subject matter of Claim 41 non-statutory, and the Examiner acknowledges that the subject matter of Claim 41 is directed to tangible embodiments, the rejection is unsupported and improper.

Conclusion

It is respectfully submitted that there is an omission of an essential element needed to establish, *prima facie*, each of the rejections. Poly does not teach or suggest at least a terminal-coupled broker. Because Poly does not involve or otherwise address the asserted network service broker communicating with the asserted terminals, Appellant believes that the limitations directed to a terminal-coupled broker are improperly being overlooked, and consequently there is an omission of an essential element(s) required for the *prima facie* rejections based upon Poly.

Kimura at least does not teach a service provision infrastructure or a service provision infrastructure that receives an address of a visited network service broker from a home network service broker. Because Kimura does not involve or otherwise address communicating with a home network service broker, Appellant believes that the limitations directed to receiving an address of a visited network service broker are improperly being overlooked, and consequently there is an omission of an essential element(s) required for the *prima facie* rejection based primarily upon Kimura.

Appellant believes that this statement, when viewed together with the prosecution history, sets forth clear grounds for a finding that the asserted rejections are improper and without basis.

The undersigned is of record and with authority to prosecute the appeal on behalf of the Assignee.

Respectfully submitted,

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